

REMARKS

In the office action, claims 8-12 have been rejected as allegedly being anticipated by U.S. Patent No. 6,345,990 to Walker. Applicants respectfully traverse.

As defined in claim 8, the claimed computer system allows subscribers to obtain access to network resources, such as network access lines, based on a bidded market mechanism. Subscribers are granted access based on respective bid amounts offered by subscribers. After access is granted to a portion of subscribers, the system calculates a reservation fee for securing future access to the system and offers admitted subscribers a "reservation" for future access. The reservation fee is analogous to an option to buy future resources at a predetermined price. The system determines a spot price for network access and determines if a subscriber's bid price is below the spot price. If so, the subscriber will be dropped if they have not accepted the reservation fee or will have the reservation activated if they have accepted the reservation fee.

The Walker patent does not disclose a system which sets a spot price based on a non-admitted subscriber, as set forth in claim 8. Further, Walker does not disclose activating a reservation of a subscriber or dropping subscribers based on a determined spot price. In Walker, pricing is determined solely by the customers individual bids set forth in "conditional purchase orders" ("CPOs"). While some bids may be rejected by the various carriers to which CPOs are presented, Walker does not disclose that these rejected bids are used as the basis of a pricing mechanism for current or future network access for admitted subscribers.

In addition, the Walker patent does not disclose the step of "determining a reservation fee for secured access. . . " as set forth in claim 8. In the office action, the reservation

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fee of claim 8 is equated with the bid being offered by customers submitting CPOs in the Walker system. Applicant respectfully disagrees. As used in claim 8, the reservation fee is not a subscriber's initial bid amount but is an additional fee, determined by the system and offered to the subscriber, for securing a "hold option" to secure future access at a certain price in the event that spot price of access exceeds the subscriber's current bid price. An admitted subscriber can accept the reservation fee and guarantee some quantity of future access based on this option or reject the reservation fee and risk having access terminated in the event that the spot price exceeds the subscriber's bid price.

Walker simply does not disclose a system which calculates a fee for an option to purchase future network access nor does Walker disclose the elements of "determining whether a subscriber has accepted the reservation fee. . ."; "determining whether a subscriber has rejected the reservation fee. . ."; "controlling the access line interface. . ."; or "activating a reservation of reserved subscribers. . . " all of which are set forth in claim 8. Since Walker fails to disclose, teach or suggest a number of elements of claim 8, claim 8 and claims 9-12 which depend therefrom, define patentable subject matter over the cited Walker patent.

In addition to the remarks set forth above with respect to claim 8, it is urged that claims 9-12 further define patentable features that are not disclosed in Walker, such as the relationship between the reservation fee, bid price and reservation duration and determination of spot price value.

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In view of the remarks set forth above, favorable reconsideration and allowance of claims 8-12 is respectfully solicited. If for any reason the application is not considered in condition for allowance, the Examiner is invited to contact the undersigned in an effort to advance the prosecution of this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Paul D. Ackerman', written over a horizontal line.

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